

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JOHN P. “JACK” FLYNN
LESLIE A. FLYNN,

Plaintiffs,

- against -

CABLE NEWS NETWORK, INC.,

Defendant.

Case: 1:21-cv-02587-AS-SLC

ORAL ARGUMENT REQUESTED

DEFENDANT’S RULE 56.1 STATEMENT OF UNDISPUTED MATERIAL FACTS

Pursuant to Rule 56.1 of the Local Rules for the United States District Court for the Southern District of New York, Defendant Cable News Network, Inc. (“CNN”) submits the following Statement of Undisputed Material Facts in support of its Motion for Summary Judgment.

The facts necessary for a determination of this Motion are set forth in the accompanying Declaration of Katherine M. Bolger (“Bolger Dec.”), sworn to on the 27th day of October, 2023, and the exhibits annexed thereto (“Ex. _”).

FACTUAL BACKGROUND

A. The Parties

1. At the time of filing the First Amended Complaint (“FAC”), Dkt. 7, Plaintiff John P. “Jack” Flynn (“Jack”) was a resident of Rhode Island. FAC ¶ 8. [REDACTED]

[REDACTED]

2. At the time of filing the FAC, Plaintiff Leslie Flynn (“Leslie”) alleged she was a citizen of Rhode Island, FAC ¶ 8, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3. CNN owns and operates numerous news platforms and services, including the television network known as CNN and the website www.cnn.com. Bolger Dec. ¶ 1.

B. The QAnon Conspiracy Generally

4. “QAnon” is an American conspiracy movement that began in 2017. It centers on fabricated claims that a high-ranking government official called “Q Clearance Patriot” or “Q” is leaking top secret information about a Deep State cabal on online forums. Q’s posts, called “Q Drops,” of which there have been just shy of 5,000, claim that Trump was the only one who could save America. Ex. 6 at 5.

5. Members of the QAnon movement have a range of beliefs. Ex. 6 at 4-5; Ex. 8 at 187-188. Q encouraged his followers to “do their own research” and use memes (a graphic or image often accompanied by text that is shared online) to spread the word about Q Drops. Ex. 82 (instructing “memes at the ready. WWG1WGA! Q”); Ex. 34 at 43:16-21. Posting on social media is central to the QAnon movement, Ex. 34 at 43:12-21; Ex. 3 ¶ 15, and posting about Q by social media influencers greatly increased the movement’s reach. Ex. 9 at 2:23-3:28; *see also id.* 1:00-2:22; Ex. 10 at 6:13-10:01.

6. At a QAnon convention in October 2020, a prominent QAnon supporter, Dave Hayes (known online as Praying Medic), referenced General Flynn’s emphasis on social media, and stated that social media is “where the war is” and where QAnon supporters “took over the idea of information.” Ex. 10 at 6:13-10:01. Praying Medic said: QAnon supporters “collectively are massively killing [mainstream media] on engagement on social media” and are “having a big impact on the public perception of information.” *Id.* Praying Medic also emphasized the importance of hashtags, because if QAnon supporters “can get a post going, a viral hashtag, you

can co-opt the hashtag,” and retweet to “amplify the right message” and “get it to go viral.” Ex. 9 at 1:00-2:22. Another QAnon supporter said at the convention, Q “tells us to stay there [on social media], tells us to stay on Twitter . . . because we have to fight on those platforms.” *Id.* at 2:23-3:28. Praying Medic stated, “That’s why they’re taking [QAnon] accounts down” because QAnon supporters are “killing their narrative,” Ex. 10 at 6:13-10:01, and “[t]hey take your account off, you create another one. You keep messaging. You get out there.” *Id.* at 6:13-10:01.

7. On October 17, 2020, Q instructed his followers to deny being QAnon followers and instead to claim “[t]here is ‘Q[.]’ ... [t]here are ‘Anons[.]’ [but t]here is no ‘Qanon’.” Ex. 86; *see also* Ex. 34 at 34:2-6.

8. Q uses catchphrases, such as the “Storm” and the “Great Awakening.” Ex. 6 at 19-20. Among them is the phrase “Digital Soldiers,” which was coined by Gen. Flynn in November 2016 [REDACTED]

[REDACTED]

C. “Where We Go One, We Go All” is a QAnon Slogan

9. No phrase is more associated with QAnon than the QAnon Slogan “Where We Go One, We Go All” and its abbreviation “WWG1WGA.” Ex. 6 at 11-12; *see also* Ex. 8 at 93, 160.

10. The origin of the phrase WWG1WGA is enmeshed in QAnon lore. The phrase was first used in Q Drop #513, on January 8, 2018, Ex. 80, and many QAnon supporters believe the phrase was engraved on a bell on President John F. Kennedy’s sailboat. In fact, it comes from the 1996 film *White Squall*. Ex. 3 ¶ 17; Ex. 6 at 13-14; Ex. 8 at 21. And the picture of the engraved bell that many QAnon followers claim is from Kennedy’s boat is in fact a still photo from *White Squall* that was published in Q Drop #3924. *See* Ex. 83; Ex. 8 at 21, 186.

11. Q has used either “Where We Go One, We Go All” or its abbreviation “WWG1WGA” in 201 posts. Ex. 6 at 12. And it was used extensively by QAnon followers on

social media, often with other hashtags like #QAnon. Ex. 35 at 138:8-10; Ex. 36 at 36:16-18. In fact, the use of social media by the QAnon movement to spread disinformation was so widespread that, following the January 6 Capitol attack, Twitter banned users (including Jack’s brother and Leslie’s brother-in-law, Gen. Flynn, [REDACTED]) who posted QAnon phrases. Ex. 105; *see also* Ex. 32 at 332:23-333:11; Ex. 31 at 171:3-4. The phrase also appeared on clothing, hats, flags, and other merchandise. Ex. 6 at 12.

12. Courts have described “Where We Go One, We Go All” as “a slogan used by adherents of the QAnon conspiracy theory.” *U.S. v. Languerand*, 2021 WL 3674731, at *3 (D.D.C. Aug. 19, 2021). In 2020, *Media Matters* published an article titled “Here are the QAnon supporters running for Congress in 2020,” which detailed the QAnon-supportive actions of 107 former congressional candidates. Ex. 87. Derrick Grayson made the list for “tweet[ing] the QAnon slogan and its spinoff hashtag, #wwg1wgaworldwide,” and Philanise White made the list for “tweet[ing] the QAnon slogan more than once,” including in tweets soliciting donations to her campaign. *Id.* at 11, 26. Others, like Theresa Raborn and Johnny Teague, made the list for simply retweeting the Flynn’s Oath Video. *Id.* at 19-20, 22-23. Sharing the “Where We Go One, We Go All” phrase has led to political candidates being labeled as “QAnon believers” or “supporters” both in the mainstream media and by Jack and Leslie’s own purported expert. *See* Ex. 6 at 9; Ex. 8 at 200 n.55; Ex. 87.

13. Jack and Leslie alleged that “Where We Go One, We Go All” is “a simple, family, July 4 statement of support for each other.” FAC ¶ 4 n.1. [REDACTED]

[REDACTED]

[REDACTED]

D. Gen. Flynn and His Family Exploited His Connections to QAnon

14. Other than Trump, Gen. Michael Flynn, Jack's brother and Leslie's brother-in-law, is one of the most high-profile figures in the QAnon movement. Ex. 6 at 7; Ex. 8 at 5, 44.

15. [REDACTED]

[REDACTED] Q referenced Gen. Flynn in scores of Q Drops, and members of the Q movement show their support for Gen. Flynn by adding three stars to their Twitter handle (meant to signify his rank as a three-star general); creating, sharing, and liking memes featuring him; and using hashtags like #ClearFlynnNow and #IStandWithFlynn, in conjunction with #WWG1WGA and #QAnon. Ex. 32 at 345:5-346:4; Ex. 6 at 8; Ex. 28 at 212:16-19.

16. [REDACTED]

[REDACTED]

17. Many suspected Gen. Flynn was himself Q. Ex. 32 at 169:8-170:7; *see* Ex. 8 at 20-21. [REDACTED]

[REDACTED]

E. Jack Promoted QAnon To Benefit Gen. Flynn and the Legal Defense Fund

18. [REDACTED]

[REDACTED]

19. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

20. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

21. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

22. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

23. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] *Id.* at 126:3-20, 127:15-23; Ex. 48 at 3 (tweeting

“WWG[]1WGA TO MikeFlynnDefenseFund.org”). [REDACTED]

[REDACTED]

24. [REDACTED]

Between

October and December 2018, Jack retweeted post after post using the hashtags #WWG1WGA, other QAnon terms, and Flynn promotional phrases (like #AllInForGenFlynnFriday) to encourage donations to the Legal Defense Fund:



See id. at 233:18-234:4, 235:23-236:12 & Ex. 58 at 4 (October 2018 retweet of post encouraging donations to the Legal Defense Fund containing #WWG1W[G]A, #AllInForGenFlynnFriday and a link to the Legal Defense Fund’s website); Ex. 28 at 240:19-241:7 & Ex. 59 at 5 (November 2018 retweet of post asking for “support” of the Legal Defense Fund with the hashtag #WWG1WGA); Ex. 28 at 89:2-14 & Ex. 43 at 3 (November 2018 retweet of a post by Twitter user with the display name “Trump Q Chick” containing “[T]omorrow isn’t just #BlackFriday[.]

It's a day to tell @GenFlenn how much #WeThePeople appreciate him!!" with the hashtags #IStandWithGenFlynn, #allinfor genflynnfriday, #QAnon and #WWG1WGA); Ex. 28 at 245:14-248:6 & Ex. 60 at 1 (December 2018 retweet of a user with three stars in their display name linking to the Legal Defense Fund along with the hashtags #QArmy and #WWG1WGA [REDACTED] [REDACTED]); Ex. 28 at 249:18-250:20 & Ex. 61 at 2 (December 2018 retweet of a post linking to the Legal Defense Fund along with the phrase, "Where We Go One, We Go All!" and the hashtag #AllInForGenFlynnFriday).

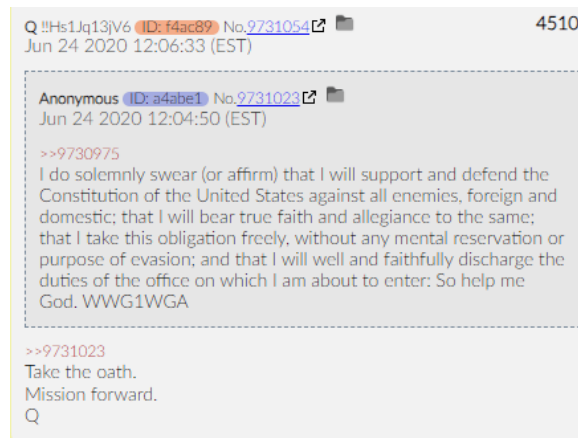
25. Jack continued to share similar posts in 2019 and 2020. *See* Ex. 28 at 253:14-254:9 & Ex. 62 at 4-5 (September 2019 retweet of posts containing screenshots of donations to the Legal Defense Fund along with the hashtag #WWG1WGA); Ex. 28 at 92:22-94:21 & Ex. 44 at 4 (April 2020 retweet of a tweet "in support of his brother" sharing a tweet from a user with the display name "#ANON ARTS #Q & a BAND OF ANONS #WWG1WGA"); Ex. 28 at 101:18-102:7 & Ex. 46 at 5 (May 2020 retweet of post with the hashtags #ExonerateGeneralFlynnNow, #WWG1WGA WORLDWIDE, and #Q). [REDACTED]
[REDACTED]
[REDACTED]

26. Jack also shared or retweeted QAnon-related content unrelated to the Legal Defense Fund but that generally promoted Gen. Flynn. For example, in September 2019, Jack retweeted a Twitter user @BlueSkyQ with three stars in their Twitter handle that quoted from a Q Drop "libel laws end of MSM [Mainstream Media]" and screenshots of several different Q Drops along with the hashtag #QAnon. Ex. 28 at 211:5-213:20 & Ex. 56 at 7. [REDACTED]
[REDACTED]
[REDACTED]

27. In July 2020, Jack retweeted a meme containing a photograph of Gen. Flynn, the text “Where We Go One, We Go All,” and quoting from two Q Drops referencing Gen. Flynn. Ex. 28 at 104:6-25; Ex. 41 at 7.

F. The #TakeTheOath Movement

28. On June 24, 2020, 20 minutes after the D.C. Circuit Court of Appeals (temporarily) ordered Judge Sullivan to dismiss the charges against Gen. Flynn, Q posted “The People’s General. Soon” followed by three stars. Ex. 84; Ex. 7 at 14. Approximately two hours later, Q posted Drop #4510, Ex. 85:



29. Shortly thereafter, QAnon followers began filming themselves reciting the oath and posting the video along with #TakeTheOath, #QAnon, and #Qdrop. Ex. 7 at 18. On June 25, 2020, there were 76,600 tweets with #TakeTheOath, many of which had QAnon iconography, used #WWG1WGA, and showed the speaker with Q shirts or Q flags when they took the oath. Ex. 6 at 15; Ex. 7 at 20-21.

30. On June 27, 2020, Gen. Flynn changed the text of his Twitter profile to include #TakeTheOath, along with a U.S. flag emoji. Ex. 6 at 16; Ex. 7 at 21-22.

31. [REDACTED]

[REDACTED] a tweet by user @wgabrittany (with the username “BrittanyWWG1WGA”), using the hashtags #TakeTheOath, #qanon, #wwg1wga, before concluding with “God bless the United States of America.” Ex. 74 at 26.

32. [REDACTED]

[REDACTED] a tweet by user @CourtSalinas with the hashtags #TakeTheOath and #WWG1WGA and the phrase “God Bless America.” *Id.*; Exs. 70-71. [REDACTED]

G. The Flynns #TakeTheOath

33. [REDACTED]

34. On July 1, 2020, three days prior to the Oath Video, Jack retweeted a tweet posted by his sister, Barbara Flynn Redgate, in which she tweeted “So Proud To #TakeTheOath To Defend Our Constitution!” and “Digital Soldiers On The Move! #WWG1WGA God Bless America!” alongside a video of herself participating in #TakeTheOath, and tagging Jack, Gen. Flynn, Lori, Sidney Powell, President Trump, Mary Flynn O’Neill, and @76LibertyWatch. Ex. 28 at 33:14-36:2 & Ex. 41 at 2.

35. That same day, Jack also retweeted a #TakeTheOath tweet and video posted by user @SharletaBasset1, who tagged Jack, other Flynn family members, and users @BardsFM and @intheMatrixxx, among others. Ex. 28 at 36:19-37:15 & Ex. 41 at 5.

36. [REDACTED]

37. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The only other people present were Sidney Powell and her son, Wilson. Once the Flynns lined up, Wilson filmed Jack, Leslie, and their family raising their right hands and reciting the federal oath of office and adding “Where We Go One, We Go All” at the end. *Compare* Ex. 2 with Ex. 85; *see also* Ex. 28 at 16:10-13, 31:18-20. [REDACTED]

[REDACTED] The Flynns also added the words “God Bless America,” as did other QAnon followers who included those words in their #TakeTheOath Twitter posts, like @WgaBrittany and @CourtSalinas [REDACTED]

[REDACTED] Exs. 70-71.

38. The Flynns filmed the Oath Video twice because “someone said they could resay it better.” Ex. 37 at 53:7-12; *see also* Ex. 28 at 17:20-18:22; Ex. 31 at 30:20-22, 31:13-17.

39. Gen. Flynn published the Oath Video on Twitter [REDACTED]

[REDACTED]

40. [REDACTED]

[REDACTED]

[REDACTED]

41. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

42. The Oath Video has been viewed more than 2.4 million times, retweeted 18.9 thousand times, and liked 56.5 thousand times. Ex. 7 at 25; *see also* Ex. 31 at 30:20-22. Jack quote tweeted General Flynn’s tweet to his approximately 108,000 followers and added the words “WWG1WGA,” as did other Flynn’s, including Lori. *See* Ex. 28 at 55:3-7 & Ex. 42 at 3-4; *see also* Ex. 32 at 149:7-150:16; Ex. 73 at 2-4. Jack also retweeted Gen. Flynn’s tweet. Ex. 42 at 3-4.

43. The Flynn’s fundraised for the Legal Defense Fund off the Oath Video. The Oath Video “got a lot of attention and possibly contributed in a positive manner on his [Gen. Flynn’s] Legal Defense Fund which became vital to the legal efforts he faced as he headed into the Fall of that year [2020].” Ex. 78 at 8.

44. Between July 4 and July 5, 2020, Jack continued to retweet strangers’ #TakeTheOath posts on Twitter, such as one from Twitter user @theoldbigmoose with the hashtag #WWG1WGA. [REDACTED]

[REDACTED] Similarly, Jack retweeted Twitter user @TEXASrdblock who commented that “Taking the oath standing with @GenFlynn, [Leslie’s] dress did steal the limelight” along with #WWG1WGA. Ex. 28 at 67:2-12 & Ex. 42 at 4. The dress Leslie wore in the Oath Video had various terms on it, including “Trump,” “Rocket Man,” and “Sleepy Joe.” Ex. 29 at 43:4-21.

45. In an undated tweet, Jack retweeted a post from a user with the phrase “QmapJapan” in their name that used the hashtags #TakeTheOath and #Q and tagged Jack’s Twitter account along with other QAnon figures, including @intheMatrixxx, @TheJTWilde, @prayingmedic, @TheCollectiveQ, and @Qappanon. Ex. 28 at 80:9-81:10 & Ex. 108.

46. Also on July 4 or 5, 2020, Jack retweeted a photo of Gen. Flynn with a “Q” prominently attached to his lapel, set against green computer code and text stating “The Great Awakening.” Ex. 28 at 67:19-69:8 & Ex. 42 at 5.

47. For those within the QAnon movement, Gen. Flynn, Jack, Leslie, and their family’s participation in #TakeTheOath was seen as public validation of QAnon. Ex. 3 ¶ 22. Prominent QAnon-affiliated individuals and journalists noted that the timing of the Oath Video and the Q Drop 10 days prior was not coincidental. [REDACTED]

48. [REDACTED]

[REDACTED]; Ex. 37 at 72:9-73:6.

H. Media Report the Oath Video as Featuring a “QAnon Slogan”

49. After the online posting of the Oath Video, media entities across the political spectrum reported that the Flynnns took a “QAnon oath” and described WWGIWGA as a “QAnon slogan.” Ex. 91. In total, at least 45 news articles and countless social media posts referenced Gen. Flynn taking the QAnon oath. *Id.*; *see, e.g.*, Exs. 93-94. Even Jack and Leslie’s purported expert wrote, “Gen. Flynn himself pledged allegiance to QAnon on July 4, 2020, in which he added the phrase to the standard oath of office ‘Where we go one we go all.’ Flynn then posted the video to Facebook, Twitter, and other platforms ensuring that his oath of allegiance went viral.” Ex. 8 at 20.

50. On July 6, 2020, General Flynn’s lawyer, Sidney Powell, who was also present at the July Fourth barbecue, posted a tweet on behalf of the “Flynn family” containing the bell from *White Squall* with the QAnon Slogan that previously appeared in a Q Drop. Ex. 28 at 75:12-76:12 & Ex. 109 at 3; *see supra* ¶ 10.

51. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] But no member of the Flynn family removed the video from Twitter. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

52. The Oath Video remained available on Twitter until January 8, 2021, when Gen. Flynn’s ([REDACTED]) Twitter accounts were suspended as part of the post-January 6 suspensions of accounts “primarily dedicated to sharing QAnon content.” Ex. 105; *see* Ex. 32 at 332:23-333:11; Ex. 31 at 171:3-4. [REDACTED]

[REDACTED] When Gen. Flynn’s account was reinstated on January 6, 2023, the Oath Video remained on his page and is available for viewing to this day.

I. Jack Continued to Promote QAnon and the QAnon Slogan Following the Oath Video

53. [REDACTED]

[REDACTED] On

or after July 8, 2020, Jack retweeted a post containing a photo prominently featuring the letter “Q” along with the hashtag #WWG1WGA. Ex. 28 at 114:7-25 & Ex. 47 at 10.

54. On August 13, 2020, Jack posted a Twitter thread containing “What’s wrong with the statement: Where We Go 1 We Go All?? ANYONE?? #WWG1WGA,” “Anyone have a photo of Kennedy’s Brass Deck Bell that shows this statement?”, and continued promotion of the Oath Video: “Thank you for posting the Bell! . . . Joe can you repost the oath we took on the 4th? Wilson filmed it.” Ex. 28 at 118:2-119:12; FAC ¶ 4 n.1.

55. On or around August 14, 2020, Jack tweeted, “Q-Anon Movement? 1. Is this a ‘right wing conspiracy theory Group’? 2. ‘Pro American Values Centric Mind Set Group’? 3. OTHER? PLEASE offer your own idea of what you think? Your opinion matters. #KAG2020TRUMPVICTORY[.]” Ex. 28 at 388:24-390:14 & Ex. 65 at 2.

56. On August 20, 2020, Jack tweeted, “There is nothing wrong with QAnon. Just People doing their own research and learning independence of thought to find the truth. If it triggers the daylights out of fools like yourself all the better . . . Don’t you get it?? It’s so simple ~Yet complex. Like a meritage wine.” Ex. 28 at 130:18-131:11 & Ex. 49. Jack then quote tweeted that tweet and posted further: “I was told today that QAnons are dangerous people to be aligned with. That there is actually ‘no plan.’ True or not, most people seem pretty normal to me who support the idea of Q. I advocate for the Constitution and Bill of Rights. [U.S. flag emoji] if Q does too~No harm no foul” followed by the hashtag #KAG2020 (“Keep America Great”). Ex. 28 at 132:10-133:10 & Ex. 49.

57. On August 19, 2020, Jack received an email from a man he met on Twitter, who said, “Once [Gen. Flynn’s] case is dismissed, as Q Said ‘Fire at will, Commander!’ . . . WWG1WGA!!! God bless you all!! God bless America!!!” Ex. 50 at 2. That man then emailed

Jack, “Fox news just grilled the press secretary trying to control the narrative and force her to say the president supports Q, and labeling Q followers as conspiracy theorists with possible extreme domestic views” and “That storm must be just right off the coast.” *Id.* at 1; Ex. 28 at 142:11-143:8. Jack responded, “Who knows what Q really is The point is Q hasn’t burned building[s] or beaten anyone up,” [REDACTED]

58. On August 19, 2020, news outlets reported that President Trump praised QAnon supporters, saying, “I heard that these are people that love our country” and that they “like me very much.” Ex. 89 at 2.

59. Two days later, on August 21, 2020, Jack tweeted, “Honestly I ask myself about this Q thing and look for a reason not to trust anything about it. I don’t see Qsters [*i.e.*, “people who believe in [] QAnon”] in the street breaking into buildings claiming real estate pulling down statutes or beating up people in the name of some form of justice or retribution BS.” Ex. 28 at 158:22-159:16 & Ex. 51 at 3. He then posted: “I don’t know who or what Q is so there’s that. But no ones hurting each other it’s civilized encouraging people to learn independently supports trump and the constitution. So. WTF. #WWG1WGA”:



Ex. 28 at 149:8-24 & Ex. 51 at 3. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

60. That same day, Jack also retweeted a post stating that, “Qanon is not violent or conspiracy. We are every day people seeking truth . . .” and urging “QAnons [to] share and tell your story”:

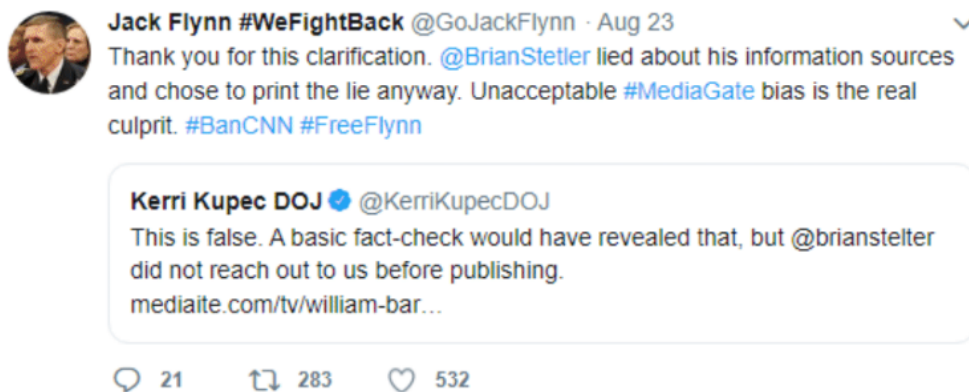


Id. at 161:9-162:3 & Ex. 51 at 2.

61. On or around August 21, 2020, Jack retweeted a post containing a “breakdown” of “QAnon vs. Antifa” that compared the “mission,” “weapons,” “tactics,” and “beliefs” of each movement, demonstrating the unique centrality of social media to QAnon. Ex. 28 at 170:10-171:4 & Ex. 52 at 14. Under QAnon, the “weapons” listed include “memes”; the “tactics” include “social media info dissemination”; and the “beliefs” include “WWG1WGA (Unity)” and “[t]he media is corrupt”:



Ex. 28 at 171:2-19 & Ex. 52 at 14. A few days later, Jack would go on to post a tweet critical of CNN with the hashtags #MediaGate, #BanCNN, and #FreeFlynn:



Ex. 28 at 177:22-179:5 & Ex. 52 at 9.

62. On August 21, 2020, Jack also tweeted asking for explanation on “[w]hat is 8Chan and what is 4Chan” followed by #WWG1WGA, [REDACTED]



Ex. 28 at 176:5-19 & Ex. 52 at 13.

63. On August 22, 2020, Jack quote tweeted a post containing a meme with a U.S. flag, a giant black “Q,” and the phrase “Where We Go One We Go All” along with “We are with you Jack!”:



Ex. 28 at 166:21-167:19, 168:15-19; Ex. 52 at 11. Jack added, “If this means you believe in the constitution and equal justice under the law then this works for me.” Ex. 28 at 168:20-169:15; Ex. 52 at 11. [REDACTED]

[REDACTED]

64. On August 23, 2020, Jack tweeted the hashtag #banCNN. Ex. 28 at 178:20-179:2 & Ex. 52 at 9.

65. [REDACTED]

66. On February 14, 2022, Jack sent a direct message on Twitter to a user asking them to delete tweets with Flynn and QAnon-related content for “personal reasons.” Ex. 28 at 197:2-198:12 & Ex. 54.

J. Leslie Promotes QAnon

67. Leslie also engaged with QAnon content on social media, including “liking” several tweets, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

68. On May 9, 2020, prior to the Fourth of July, Leslie Flynn replied to a now-deleted tweet by Jack Flynn, to which a third-party Twitter user replied with a meme containing Gen. Flynn’s photo along with “Hurricane Michael Flynn,” “#WWG1WGA,” and “Q.” After May 9, 2020, Leslie also liked that tweet. Ex. 29 at 221:4-23 & Ex. 40; Ex. 28 at 99:7-23 & Ex. 45.

K. Jack and Leslie Host Veronica Wolski

69. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

70. [REDACTED]

[REDACTED] Jack took a photo, along with Gen. Flynn, holding up Wolski's stickers; the one Jack held up said "Q SENT ME," while a friend held one up that said, "CNN SUCKS":



Id. at 436:3-437:12 & Ex. 66; Ex. 102. Jack, Leslie, along with Lori and Gen. Flynn, later took a photo with Wolski on Jack and Leslie's deck, while Wolski wore a T-shirt that said "Digital

Soldier” and “Q.” Ex. 28 at 438:2-440:14 & Ex. 110. Jack and Leslie then took another photo with Wolski wearing a “Q” hat (along with Gen. Flynn and Lori):



Ex. 28 at 441:20-442:2 & Ex. 67.

71. [REDACTED]

[REDACTED] Two weeks later, on or around September 16, 2020, he retweeted her post that was supportive of Gen. Flynn and featured a photograph of Wolski wearing a “Q” hat and a “We are The Storm” shirt discussing her visit to the Flynn’s house. Ex. 28 at 445:14-446:19, 447:16-17 & Ex. 64 at 4; Ex. 68. [REDACTED]

[REDACTED] through August 2021, after which Wolski passed away from COVID-19. [REDACTED]

72. [REDACTED]

73. On September 10, 2020, Jack received an email from a “General Flynn supporter” who reached out to him online asking, “So you and the whole family believe in Q anon?” and stating that Joe Flynn “led [her] to believe that Q was okay and it was ‘involved.’” Ex. 28 at 180:18-181:13, 185:7-187:12, 189:15-190:11; Ex. 53. Jack privately expressed some skepticism in an email about QAnon but acknowledged that he “most certainly ask[s] about it and get[s] a

reaction from others,” and that he had been “digging into it because so many people follow [us] that are ‘Q’s.’” Ex. 53. Although privately acknowledging in “a personal email” to the individual that Q “actually encourages people to do their own research” and that “its existence and foundation is hog wash,” Ex. 28 at 191:15-22, 195:6-20; Ex. 53, [REDACTED]

74. On October 23, 2020, while the Legal Defense Fund link remained in his bio and his pinned tweet, Jack retweeted a post from a user with display name “w.w.g.l.w.g.a” and username “@wwglwga74768620” tagging Jack and Gen. Flynn and containing a screenshot of Q Drop #1440: “BOOM. BOOM. BOOM. BOOM. A WEEK TO REMEMBER. DARK TO LIGHT. BLACKOUT NECESSARY. Q[.]” Ex. 28 at 199:18-23; Ex. 55 at 3. Over a year prior, the QAnon-associated individual who posted about Q Drops online as @InTheMatrixxx (aka Jeffrey Pedersen) had tweeted about this exact Q Drop [REDACTED]

75. In December 2020, Jack retweeted a post promoting clothing sales with the QAnon Slogan “WWG1WGA” and the phrase “#FightLikeAFlynn” that “benefits the [Legal] Defense Fund” on a website called The Shirt Show. Ex. 28 at 263:18-264:14; Ex. 63. [REDACTED]

76. The connection between this QAnon merchandise and the Legal Defense Fund was widely reported on prior to the Report, including by Jack and Leslie's purported expert. Ex. 8 at 44; *see also* Ex. 6 at 20-21; Ex. 88. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

L. CNN's Newsgathering for the Report At Issue

77. The connections between the Flynn family and QAnon were known to CNN journalist Donie O'Sullivan before he created the Report at issue. O'Sullivan has followed QAnon for several years, publishing numerous articles and television packages on the movement. Ex. 3 ¶¶ 9, 12-16, 22, 30-31, 38. O'Sullivan was also aware prior to the Report of Q Drop #4510; the fact that General Flynn and his family used QAnon terms to fundraise for the Legal Defense Fund; the #TakeTheOath movement and the Oath Video; that several congressional candidates in the 2020 elections had been labeled QAnon supporters for tweeting or retweeting the QAnon Slogan and/or the Oath Video; and CNN's and other outlets' prior reporting on the Flynn's Oath Video, which included Sidney Powell's quoted response on the Flynn family. *Id.* ¶¶ 19-31.

78. On October 17, 2020, O'Sullivan attended a QAnon convention called Q Con Live! in Scottsdale, Arizona. *Id.* ¶¶ 32-34. While there, O'Sullivan saw and heard repeated references to and exclamations of "Where We Go One, We Go All"; saw the Q Con Live! attendees' positive response to Trump's refusal to disavow QAnon at the NBC town hall; observed the importance of social media to QAnon; and witnessed Q Con Live! speakers' favorable references to Gen. Flynn. *Id.* ¶¶ 34-37.

M. CNN’s Preparation of the Report At Issue

79. Following O’Sullivan’s reporting for CNN on the Capitol riot, he realized that some of the individuals who had attended Q Con Live! also participated in the riot. *Id.* ¶¶ 40-41. A few weeks later, in early February 2021, O’Sullivan pitched a television news package to CNN’s nightly news show, CNN Tonight, seeking to shed new light on the relationship between QAnon and Trump and his enablers, including his reporting from Q Con Live!. *Id.* ¶¶ 42-44.

80. After CNN Tonight accepted the pitch, O’Sullivan began writing the script and determining which elements, such as video, would be featured. *Id.* ¶¶ 45-46. By the morning of February 4, 2021, O’Sullivan had prepared a draft script that included a two-second clip from the Oath Video showing Gen. Flynn reciting the words, “Where We Go One, We Go All.” *Id.* ¶ 47. The editor assigned to the Report cut those clips based on O’Sullivan’s script. *Id.* ¶ 50.

81. O’Sullivan chose to include the Oath Video clip because it was newsworthy that a mainstream political figure like Gen. Flynn had promoted the same QAnon Slogan, “Where We Go One, We Go All,” used at Q Con Live!. *Id.* ¶¶ 47-49.

82. O’Sullivan sent the final script for review to among others, Fuzz Hogan at the Row, CNN’s editorial oversight department, and Emma Lacey-Bordeaux at Standards and Practices, CNN’s department dedicated to ensuring content is consistent with ethical and professional standards. *Id.* ¶ 61; Ex. 4 ¶¶ 2, 17; Ex. 5 ¶¶ 2-3, 16. The script was approved by Hogan, who confirmed the Report was factually accurate, and Lacey-Bordeaux, who had no concerns with the Report from a Standards and Practices perspective. Ex. 4 ¶¶ 22-33, 35, 37; Ex. 5 ¶¶ 22-27, 29, 31-32. Both Hogan and Lacey-Bordeaux were also aware that “Where We Go One, We Go All” was associated with QAnon, and that it was widely reported that Gen. Flynn and his family had taken a QAnon oath in July 2020. Ex. 4 ¶¶ 25-29; Ex. 5 ¶¶ 22-24. Neither Hogan nor Lacey-Bordeaux flagged the portion of the Report in which the Oath Video appeared as problematic, and

O’Sullivan, Hogan, and Lacey-Bordeaux all believed the Report to be fair and accurate. Ex. 3 ¶¶ 49, 61-64, 81; Ex. 4 ¶¶ 4, 31-32, 37-38; Ex. 5 ¶¶ 4, 24, 26, 31-32. O’Sullivan supervised the physical assembly of the Report, and saw and approved the complete Report prior to airing. Ex. 3 ¶¶ 39, 50, 69.

83. After the Report’s script was finalized, the Chyron, or a banner that appears on the lower third of the screen, reading “CNN Goes Inside a Gathering of QAnon Followers,” was added soon before the Report aired. *Id.* ¶ 73. O’Sullivan did not create the Chyron, but as a matter of standard practice, the CNN show airing the news package would have prepared the Chyron, and CNN often runs chyrons during the entirety of news reports. *Id.* ¶ 74; Ex. 5 ¶ 30. Here, the Chyron’s words were the exact same as those in the Report. Pulling the text of the Chyron from the script of the news package is one of the common ways that chyrons are created. Ex. 3 ¶ 74. O’Sullivan, Lacey-Bordeaux, and Hogan have since reviewed the Chyron, and they believe that it fairly and accurately reflects the Report because of the Report’s overall focus on Q Con Live!, and that it does not call Jack or Leslie QAnon followers. Ex. 3 ¶¶ 74-78; Ex. 4 ¶ 37; Ex. 5 ¶ 31. Additionally, Hogan believes that “the Report was not about Jack or Leslie” and that “[i]t did not allege that Jack or Leslie, or any other member of the Flynn family, had committed any wrongdoing.” Ex. 4 ¶ 33. Similarly, Lacey-Bordeaux believes that “the Report is not about Jack or Leslie,” and that it does not “reference them by name or even include them reciting the oath.” Ex. 5 ¶ 25.

84. O’Sullivan, Lacey-Bordeaux, and Hogan believed at the time it was published, and believe now, that the Report was fair and accurate. They also believe that the Report did not depart from the Row’s editorial standards, CNN’s ethical and professional standards and practices, or the

standards of care associated with responsible journalism. Ex. 3 ¶¶ 4, 81; Ex. 4 ¶¶ 4, 37-38; Ex. 5 ¶¶ 4, 32.

85. The Report aired for the first time on CNN Tonight at 10:45 PM ET on February 4, 2021, and later aired four other times: a CNN Tonight replay at 2:48 AM on February 5, 2021; on CNN Newsroom at 3:49 PM on February 5, 2021; on New Day Saturday at 7:33 AM on February 6, 2021; and on CNN Newsroom at 3:30 PM on February 6, 2021. Ex. 3 ¶¶ 3, 79.

N. The Report

86. The Report, which is approximately three minutes and 50 seconds, is largely composed of footage of O’Sullivan’s attendance at Q Con Live!. Ex. 1. The Chyron remains at the bottom of the screen during the entirety of the Report, including O’Sullivan’s interview with Don Lemon on air after the Report concludes. *Id.*; Ex. 3 ¶ 73. The Report opens with several statements at Q Con Live! criticizing the mainstream media, before flashing to footage of O’Sullivan wearing a mask at Q Con Live!. Ex. 1. Within the first 20 seconds of the Report, O’Sullivan explains that the footage was from “this gathering of QAnon followers in Arizona just two weeks before November’s election.” *Id.* The Report then shows the QAnon Shaman at Q Con Live! followed by an image of him at the January 6 attack. Next, the Report features J.T. Wilde playing his song “Where We Go One, We Go All” at Q Con Live!; O’Sullivan then describes that phrase as an “infamous QAnon slogan promoted by Trump’s first national security adviser, Michael Flynn” that was also “played as an anthem at this meeting of Trump supporters [Q Con Live!].” *Id.* During O’Sullivan’s explanation, the Report shows photos of the phrase in full, abbreviated as “#WWG1WGA,” and printed, with the letter “Q,” on large flags, followed by a clip of Gen. Flynn with Trump at a campaign rally. *Id.* O’Sullivan’s statement is then followed with a two-second clip of the Oath Video, showing Gen. Flynn reciting, “Where We Go One, We Go All,” which was fonted—meaning, credited—to Gen. Flynn’s Twitter with the words

“Twitter/Michael Flynn July 2020.” *Id.* Jack and Leslie, who are not named, are also visible in the clip, but are not shown speaking any words. *Id.* The Report does not describe QAnon as a “cult,” nor does it mention anything about a high-ranking government insider known as Q exposing a cabal of Satan-worshiping pedophiles which controls the government. *Id.*

87. The Report also shows Q Con Live! attendees cheering Trump’s refusal to disavow QAnon during a town hall with journalist Savannah Guthrie. *Id.* The Report also identified prominent figures in the QAnon movement and closes with O’Sullivan’s interview with Travis View, the host of a QAnon podcast, and a final shot of J.T. Wilde singing “Where We Go One, We Go All.” *Id.* After the Report concluded, Lemon interviewed O’Sullivan, focusing exclusively on Q Con Live! and January 6, and made no mention of Jack and Leslie. *Id.* at 3:51-5:52.

88. [REDACTED]
[REDACTED]
[REDACTED] In her initial disclosures, Leslie claimed to have first learned of the Report in March 2021 from her friend, Maryellen Sullivan Kelly, [REDACTED]

[REDACTED]¹

89. In any event, regardless of how she learned of the Report, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

¹ Leslie admitted in her Verified Answer to CNN’s Fourth Set of Interrogatories that she did not confirm her auto-deletion setting was turned off, and, consequently, deleted relevant communications regarding her knowledge of the Report and failed to preserve an authentic copy. Ex. 104.

[REDACTED]

90.

[REDACTED]

[REDACTED] When asked if he was seeking damages for medical harm as a result of the Report, he stated he would have to speak to his attorney, and never got back to CNN on the issue. *Id.* at 372:1-374:4; Bolger Dec. ¶ 122.

91. Though originally claiming they were entitled to actual and special damages in their FAC ¶ 29, [REDACTED]

[REDACTED]

O. Procedural History

92. On March 25, 2021, Jack and Leslie sued CNN in this Court, bringing claims for defamation *per se* and false light invasion of privacy based on the allegation that the Report falsely accused them of being a “QAnon follower.” Dkt. 1.

93. On May 7, 2021, Jack and Leslie filed the FAC, again alleging defamation *per se* and false light invasion of privacy. Dkt. 7.

94. On June 21, 2021, CNN moved to dismiss the FAC. Dkt. 17-19. On October 14, 2021, Magistrate Judge Sarah L. Cave held a hearing on CNN’s motion to dismiss. Dkt. 33.

95. On October 22, 2021, Magistrate Judge Cave issued a report and recommendation (“R&R”) recommending dismissal with prejudice of Jack and Leslie’s defamation *per se* and false light claims under Rhode Island law. Dkt. 38. As for the defamation *per se* claim, the R&R concluded that to the extent the Report called Jack and Leslie QAnon followers, that claim was neither “substantially false nor defamatory,” because “by their own statements, both in the [FAC] and in ... Twitter feeds ... [Jack and Leslie] connected themselves to QAnon, and therefore, cannot plausibly allege that CNN’s statements were substantially false.” *Id.* at 33. The R&R also concluded that Jack and Leslie failed to allege that, under a negligence standard, CNN “lacked reasonable grounds for believing the truth of the statement that they were QAnon followers.” *Id.* at 35. The R&R further concluded that the statement “QAnon follower” was not defamatory *per*

se, and Jack and Leslie failed to plead special damages. *Id.* at 37-38. As for the false light claim, the R&R concluded that “given their own statements sharing and following the opinions of QAnon,” Jack and Leslie cannot “plausibly allege” that the Report “imply[d] an association which does not exist,” and therefore did not adequately plead that claim. *Id.* at 40.

96. On November 5, 2021, Jack and Leslie objected to the R&R, Dkt. 39, to which CNN responded. Dkt. 40-41.

97. On December 16, 2021, this Court issued a memorandum opinion and order adopting the R&R in part and rejecting it in part. Dkt. 42. This Court dismissed Jack and Leslie’s defamation *per se* claim but held that their false light claim was adequately pleaded. *Id.*

98. On December 30, 2021, CNN filed a motion for partial reconsideration of the Court’s December 16, 2021, Order to the extent it reversed the R&R’s dismissal of the false light claim and reversed the R&R’s conclusion that Jack and Leslie had not adequately pleaded negligence. Dkt. 49.

99. On January 14, 2022, CNN answered the FAC. Dkt. 52.

100. On February 9, 2022, and March 3, 2022, respectively, Valerie Flynn (the wife of Jack’s brother Joe) and Lori Flynn (Gen. Flynn’s wife) sued CNN in the Middle District of Florida, bringing claims for defamation *per se* and defamation-by-implication based on the allegation that the Report falsely accused them of being “QAnon followers” (the “MDFL Actions”). *See Valerie Flynn v. CNN*, No. 8:22-cv-00343 (M.D. Fla.), Dkt. 1; *Lori Flynn v. CNN*, No. 8:22-cv-00512 (M.D. Fla.), Dkt. 1.

101. On August 12, 2022, this Court granted in part and denied in part CNN’s motion for partial reconsideration, holding that at the pleading stage, Jack and Leslie had plausibly alleged falsity for purposes of their false light claim. Dkt. 65. The Court “[took] no position on whether,

at a later stage in the case, a factfinder may discredit” Jack and Leslie’s allegations that the Oath Video, and their recitation of the QAnon Slogan, was associated with QAnon. *Id.* at 8-9. On reconsideration, the Court also voided the portion of its December 16, 2021, Order holding that Jack and Leslie plausibly alleged CNN’s negligence for purposes of their defamation claim. *Id.* at 11-12. Discovery then proceeded in this action.

Dated: New York, New York
October 27, 2023

Respectfully submitted,

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